

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

SOURCEPROSE CORPORATION
Plaintiff,

VS.

**THE FIRST AMERICAN CORPORATION;
FIRST AMERICAN FLOOD DATA
SERVICES, INC.; FIRST AMERICAN REAL
ESTATE SOLUTIONS OF TEXAS, L.P.;
FIRST AMERICAN REAL ESTATE
SOLUTIONS, L.P.; FIRST AMERICAN REAL
ESTATE INFORMATION SERVICES, INC.; FIRST
AMERICAN FLOOD HAZARD
CERTIFICATION, L.L.C. f/k/a
TRANSAMERICA FLOOD HAZARD
CERTIFICATION, INC.;
FIDELITY NATIONAL FINANCIAL, INC.;
FIDELITY NATIONAL INFORMATION SERVICES,
INC.; FNIS FLOOD SERVICES, L.P. d/b/a LSI
FLOOD SERVICES f/k/a FIDELITY NATIONAL
FLOOD SERVICES, INC.; FIDELITY
INFORMATION SERVICES; GEOTRAC, INC.;
LANDAMERICA FINANCIAL GROUP, INC.;
LANDAMERICA TAX AND FLOOD SERVICES,
INC. f/k/a LERETA CORPORATION or f/k/a
LANDAMERICA LERETA,
Defendants.**

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§ **CIVIL ACTION NO. 2:04-CV-00265-TJW**
§
§ **JURY TRIAL REQUESTED**

JOINT CLAIM CONSTRUCTION AND PREHEARING STATEMENT

In compliance with the Court's Patent Rule 4-3, the parties hereby submit this Joint Claim Construction and Prehearing Statement and accompanying Exhibits 1 – 5.

I. Construction of Claim Terms, Phrases, or Clauses on Which the Parties Agree

In compliance with Patent Rule 4-3(a), the parties have identified in attached Exhibits 1, 2, and 3 the construction of those terms, phrases, or clauses on which they agree for U.S. Patents No. 6,631,326, No. 6,678,615 and No. 6,842,698, respectively.

II. Proposed Claim Constructions for Disputed Claim Terms, Phrases, or Clauses

In compliance with Patent Rule 4-3(b), the parties have identified in attached Exhibits 1, 2, and 3, the parties' respective proposed construction of each disputed claim term, phrase, or clause for U.S. Patents No. 6,631,326, No. 6,678,615 and No. 6,842,698, respectively, and have also identified all references from the specification or prosecution histories of, and patents or patent applications incorporated by reference by, U.S. Patents No. 6,631,326, No. 6,678,615 or No. 6,842,698 that support the parties' constructions and an identification of extrinsic evidence upon which the parties intend to rely upon to support their proposed constructions or to oppose the respective other party's proposed constructions.

Plaintiff has included in Exhibit 4 the extrinsic evidence upon which Plaintiff intends to rely upon to support its proposed constructions or oppose Defendants' proposed constructions.

Defendants have included in Exhibit 5 the extrinsic evidence and excerpts of the intrinsic evidence not previously before the Court, including excerpts from patents or patent applications incorporated by reference in U.S. Patents No. 6,631,326, No. 6,678,615 and No. 6,842,698 and the prosecution histories, upon which Defendants intend to rely to support their proposed constructions or oppose Plaintiff's proposed constructions.

III. Anticipated Length of Time Necessary for the Claim Construction Hearing

Plaintiff anticipates that a hearing of three hours would be sufficient for construing those terms Plaintiff and Defendants have identified as requiring constructions. Defendants anticipate that a hearing of four to six hours would be sufficient for construing those terms Defendants and Plaintiff have identified as requiring construction.

IV. Identification of Witnesses

Plaintiff reserves the right to call the following witnesses at the Claim Construction Hearing:

John Howard may testify as an expert witness as to the level of education and experience of a person of ordinary skill in the art (POSA) and how a POSA would understand various terms of art in the relevant field. Mr. Howard may testify with regard to the state of the art the technology relevant to the patents in suit.

Defendants reserve the right to call the following witnesses at the Claim Construction Hearing:

Dr. Carol J. Miller
Professor, Department of Civil and Environmental Engineering
Wayne State University
Detroit, Michigan

Dr. Miller will testify about the technology and engineering discussed and utilized in the patents-in-suit. Dr. Miller will not offer opinion testimony about the meaning of particular claims or claim terms. Dr. Miller's testimony will focus on factual information known to persons of skill in the art of engineering, and more particularly civil engineering, during the 1980s and 1990s time period.

Dr. Miller's testimony will include description and discussion of the following engineering topics: the performance of flood insurance investigations and studies; site drainage and waterway analyses and studies; preparation of flood zone maps designating flood zone indicated geographic

areas; preparation of FEMA flood zone maps designating flood zone indicated geographic areas; assignment of a flood zone classification to the flood zone indicated area including the analysis of the topography of the flood zone indicated area, associated wetlands, site drainage of the flood zone indicated area, and flood zone classifications of adjacent geographic areas; methods for facilitating flood zone determinations and the use of those methods during the 1980s and 1990s time period; methods for geocoding particular land areas or parcels and the use of those methods during the 1980s and 1990s time period; methods for georeferencing maps and the use of those methods during the 1980s and 1990s time period; and methods for facilitating creation of flood zone certifications based upon the determination of the flood zone for geographic area and the use of those methods during the 1980s and 1990s time period.

V. Other Issues

The parties are unaware of any other issues that should be taken up at a prehearing conference prior to the Claim Construction Hearing.

Respectfully submitted,

SLATER & MATSIL, L.L.P.

_____/s/_____
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CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing document to be sent to all counsel of record by the Electronic Case Filing System of the Eastern District of Texas on this 5th day of July, 2005.

_____/s/_____
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